

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

IN RE:	)	CHAPTER 13
	)	
JOHN PLEAS SHAW STEPHENS, III	)	CASE NO. 14-63232 - MHM
SANDRA KAY STEPHENS,	)	
	)	
Debtors.	)	
	)	
-----		
	)	
JOHN PLEAS SHAW STEPHENS, III	)	
and SANDRA KAY STEPHENS,	)	
	)	
Movants,	)	
v.	)	CONTESTED MATTER
	)	
DELTA COMMUNITY CREDIT	)	
UNION,	)	
Respondent.	)	

**ORDER AND NOTICE REGARDING STRIP LIEN MOTION**

On August 27, 2014, Debtors filed a motion to strip the junior lien held by Delta Community Credit Union (Doc. No. 14) (the "Motion"). In the Motion, Debtors allege:

- Debtors' real property and residence is 110 Riverside Court, Hampton, Henry County, Georgia 30228-2857 (the "Property").
- The fair market value of the Property is \$112,600.00, based upon an appraisal performed by the Henry County Board of Assessors, Georgia, whose report is attached to the Motion.
- Seterus, Inc. ("First Lender") holds a first priority lien in the scheduled amount of \$138,765.00.
- Delta Community Credit Union ("Junior Lender") holds a second priority lien in the amount of \$3,343.00.

- The Junior Lender's lien is wholly unsecured.

The Motion is available for review in the office of the Clerk, U.S. Bankruptcy Court between 8:00 a.m. and 4:00 p.m. or online anytime at <http://ecf.ganb.uscourts.gov> (registered users) or at <http://pacer.psc.uscourts.gov> (unregistered users). It is hereby

**ORDERED** that any person or party who objects to entry of **the order attached as Exhibit "A,"** granting the relief sought in the Motion:

1. **Must file** a written objection, stating the grounds therefor, on or before the close of business<sup>1</sup> September 25, 2014, with

Clerk, U. S. Bankruptcy Court  
1340 U. S. Courthouse  
75 Spring Street, S.W.  
Atlanta, Georgia 30303-3367;

2. **Must serve** a copy of said objection upon Debtors' attorney:

Alex J. Dolhancyk  
The Dolhancyk Law Firm, PC  
522 Flint Trail, Suite B  
Jonesboro, GA 30236-1316

so that such written objections are actually received by Debtors' attorney on or before the deadline set forth in Paragraph 1; and

3. **Must advocate** the objection at the hearing on the Motion.

If any objection is filed, hearing on the Motion will be held before the undersigned in Courtroom 1204, United States Courthouse, 75 Spring Street, S.W., Atlanta, Georgia 30303, on October 2, 2014, at 3:00 o'clock P.M.


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<sup>1</sup> Objections filed electronically may be filed up to 11:59:59 p.m. All other objections must be filed by delivery to the Clerk's Office at or before 4:00 p.m.

**Any objection not timely filed, served, and advocated at the hearing set above shall be deemed waived, and the proposed order attached to this order as Exhibit "A" may be entered without further notice or hearing. It is further**

**ORDERED** that, on or before September 4, 2014, Debtors' attorney shall serve a copy of this Order and Notice upon Debtors, the First Lender, the Junior Lender, and the Chapter 13 Trustee, and shall file a certificate of such service within three days thereafter.

**IT IS SO ORDERED**, this the 28<sup>th</sup> day of August, 2014.

  
\_\_\_\_\_  
MARGARET H. MURPHY  
UNITED STATES BANKRUPTCY JUDGE

Prepared and submitted by:

/s/  
Alex J. Dolhancyk, Esquire  
Georgia Bar No. 225037  
The Dolhancyk Law Firm, PC  
522 Flint Trail, Suite B  
Jonesboro, GA 30236-1316  
Tel.: 678.619.1728  
E-mail: dolhancyklaw@gmail.com

**Exhibit "A"**

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

IN RE:	)	CHAPTER 13
	)	
JOHN PLEAS SHAW STEPHENS, III	)	CASE NO. 14-63232 - MHM
SANDRA KAY STEPHENS,	)	
	)	
Debtors.	)	
	)	
-----		
	)	
JOHN PLEAS SHAW STEPHENS, III	)	
and SANDRA KAY STEPHENS,	)	
	)	
Movants,	)	
v.	)	CONTESTED MATTER
	)	
DELTA COMMUNITY CREDIT	)	
UNION,	)	
Respondent.	)	

**PROPOSED ORDER GRANTING MOTION TO STIP LIEN**

On August 27, 2014 Debtors filed a *Motion to Strip Lien*, seeking to strip the lien held by Delta Community Credit Union ("Delta" or "Junior Lender") (Doc. No. 14)

("Motion"). An Order and Notice regarding the Motion was entered [date] (Doc. No. \_\_\_\_ ) ("Notice"). Debtors contend that Delta's claim is completely unsecured because no value exists in the residential real property of Debtors located at 110 Riverside Court, Hampton, Henry County, Georgia 30228-2857 (the "Property") to which its junior lien can attach. Therefore, Delta's claim is unsecured and its lien may be deemed *void* upon entry of Debtors' discharge or completion of Debtors' plan pursuant to 11 U.S.C. Sections 506(d) and 1322(b)(2). See *In Re Tanner*, 217 F. 3d 1357 (11<sup>th</sup> Cir. 2000); *In Re Tran*, 431 B.R. 230, 235 (Bankr. N.D. Cal. 2010); *In Re Felicien*, Case No. 11-50587-MHM (Doc. No. 46) (Bankr. N.D. Ga., October 11, 2011); *In Re Jennings*, 454 B.R. 252 (Bankr. N.D. Ga. 2011) (J. Mullins). Debtors and the record show that the holder of the first priority lien, Seterus, Inc., claims a secured debt in the amount of \$138,765.00, which amount exceeds the value of the Property, \$112,600.00. Therefore, it is appropriate to value the lien of Delta at zero for purposes of confirmation of Debtors' Chapter 13 plan and to classify and treat its claim as a general unsecured claim. Delta failed to oppose the Motion in writing, so that, pursuant to the Notice, its lack of opposition and for good cause shown, it is hereby

**ORDERED** that the claim of Delta Community Credit Union is *disallowed* as secured, *allowed* as unsecured, and shall be treated accordingly under Debtors' Plan. Upon completion of Debtors' Chapter 13 plan, Debtors may seek by motion in this case an order avoiding the Delta Community Credit Union lien. It is further

**ORDERED** that, should this chapter 13 case be dismissed, the lien of Delta Community Credit Union shall not be affected by this Order.

[END OF DOCUMENT]

Prepared and submitted by:

/s/

Alex J. Dolhanczyk, Esquire  
The Dolhanczyk Law Firm, PC  
Georgia Bar No. 225037  
The Dolhanczyk Law Firm, PC  
522 Flint Trail, Suite B  
Jonesboro, GA 30236-1316  
Tel.: 678.619.1728

**Certificate of Notice Page 7 of 7**  
United States Bankruptcy Court  
Northern District of Georgia

In re:  
John Pleas Shaw Stephens, III  
Sandra Kay Stephens  
Debtors

Case No. 14-63232-mhm  
Chapter 13

**CERTIFICATE OF NOTICE**

District/off: 113E-9

User: wellfares  
Form ID: pdf534

Page 1 of 1  
Total Noticed: 4

Date Rcvd: Aug 29, 2014

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Aug 31, 2014.  
db/jtdb

John Pleas Shaw Stephens, III, Sandra Kay Stephens, 110 Riverside Court,  
Hampton, GA 30228-2857  
Alex J. Dolhanczyk, Esquire, The Dolhanczyk Law Firm, PC, 522 Flint Trail, Suite B,  
Jonesboro, GA 30236-1316

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.  
aty E-mail/Text: dolhancyklaw@yahoo.com Aug 29 2014 21:05:26 Alex J. Dolhanczyk,  
The Dolhanczyk Law Firm, PC, Suite B, 522 Flint Trail, Jonesboro, GA 30236-1316

tr +E-mail/Text: bnc@l3trusteeatlanta.com Aug 29 2014 21:03:46 Adam M. Goodman,  
Adam M. Goodman, 13 Trustee, Suite 200, 260 Peachtree Street, Atlanta, GA 30303-1236  
TOTAL: 2

\*\*\*\*\* BYPASSED RECIPIENTS \*\*\*\*\*

NONE.

TOTAL: 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.  
USPS regulations require that automation-compatible mail display the correct ZIP.

**I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.**

**Meeting of Creditor Notices only (Official Form 9): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.**

Date: Aug 31, 2014

Signature: /s/Joseph Speetjens

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**CM/ECF NOTICE OF ELECTRONIC FILING**

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on August 29, 2014 at the address(es) listed below:

Adam M. Goodman cdsummary@l3trusteeatlanta.com;cdbackup@l3trusteeatlanta.com  
Alex J. Dolhanczyk on behalf of Debtor John Pleas Shaw Stephens, III  
dolhancyklawnotices@gmail.com  
Alex J. Dolhanczyk on behalf of Joint Debtor Sandra Kay Stephens dolhancyklawnotices@gmail.com  
Patti H. Bass on behalf of Creditor United Consumer Financial Services ecf@bass-associates.com  
Ronald A. Levine on behalf of Creditor Fidelity Bank rlevine@bdfgroup.com

TOTAL: 5